



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR228
  - Application for review by Mr A Morrison, c/o Plans Plus, Main Street, Urquhart, By Elgin, Moray IV30 8LG against the decision of an Appointed Officer of Moray Council
  - Planning Application 19/0029/PPP to Erect New Dwelling House at Plot 1, Rathven Station, Buckie, AB56 4DW
  - Unaccompanied site inspection carried out by the MLRB on 20 September 2019
  - Date of decision notice: 15 October 2019
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#### **Decision**

The MLRB agreed to dismiss the request for review and uphold the original decision of the Appointed Officer to refuse the above noted application.

#### **1. Preliminary**

- 1.1 This Notice constitutes the formal decision of the MLRB as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.
- 1.2 The above application for planning permission in principle was considered by the MLRB at the meeting held on 26 September 2019.
- 1.3 The MLRB was attended by Councillors Taylor (Chair), Alexander, Bremner, Coy and Gatt.

#### **2. MLRB Consideration of Request for Review**

- 2.1 A request was submitted by the Applicant seeking a review of the decision of the Appointed Officer, in terms of the Scheme of Delegation, to refuse an application on the grounds that:

The proposal is contrary to the provisions of the adopted Moray Local Development Plan (MLDP) 2015 (Policies E10, H7, T2 and IMP1) and, as a

material consideration, the associated Supplementary Planning Guidance 'Housing in the Countryside' because:

- i. As an application for a new dwelling at this location, the proposal would have an adverse impact on the Buckie Countryside Around Town designation and its objectives, and would not help to preserve the special character of the countryside at this location or preserve the distinction with the built up environment.
  - ii. The siting of an additional dwelling at this location adjacent to an existing small rural cluster would lead to a build-up of development which would be detrimental to the character and setting of this small grouping and the character and appearance of surrounding countryside by increasing the number of rural dwellings present at this location.
  - iii. The proposed development, if permitted, would involve the intensification of use of two existing vehicular accesses onto the A98 Fochabers - Cullen road which suffer from sub-standard road alignment and where visibility is restricted adjacent trees/ hedges/ obstructions and would likely give rise to conditions detrimental to the road safety of road users contrary to Moray Local Plan policies T2 Provision of Access and IMP1 Development Requirements.
- 2.2 A Summary of Information Report set out the reasons for refusal, together with documents considered or prepared by the Appointed Officer in respect of the planning application, in addition to the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.
- 2.3 With regard to the unaccompanied site inspection carried out on 20 September 2019, the Chair stated that all present members of the Moray Local Review Body (MLRB) were shown the site where the proposed development would take place and had before them papers which set out both the reasons for refusal and the Applicant's grounds for review.
- 2.4 In response to a question from the Chair as to whether the Legal and Planning Advisers had any preliminary matters to raise, both the Legal and Planning Advisers advised that they had nothing to raise at this time.
- 2.5 The Chair asked the MLRB if it had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information.
- 2.6 Councillor Gatt, having had the opportunity to visit the site and considered the Applicant's grounds for review agreed with the reasons for refusal given by the Appointed Officer, particularly in terms of the concerns raised by the Transportation Service in relation to visibility when entering or leaving the proposed development and moved that the MLRB refuse the appeal and uphold the original decision of the Appointed Officer to refuse Planning Application 19/00294/PPP as the proposal is contrary to policies E10 (Countryside around Towns), H7 (New Housing in the Open Countryside), T2 (Provision of Access) and IMP1 (Developer Requirements) of the MLDP 2015.
- 2.7 There being no-one otherwise minded, the MLRB agreed to dismiss Case LR228 and uphold the original decision of the Appointed Officer to refuse Planning Application 19/00294/PPP as the proposal is contrary to policies E10

(Countryside around Towns), H7 (New Housing in the Open Countryside), T2 (Provision of Access) and IMP1 (Developer Requirements) of the MLDP 2015.

**pp Mr Sean Hoath**  
**Senior Solicitor**  
**Legal Adviser to the MLRB**

## TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

### **Notification to be sent to Applicant on determination by the Planning Authority of an application following a review conducted under Section 43A(8)**

#### **Notice Under Regulation 22 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013**

1. If the Applicant is aggrieved by the decision of the Planning Authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the Applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
  
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the Planning Authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.